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THE
INDIAN COUNCILS ACTS, 1861 AND 1892.

AND

RULES AND REGULATIONS FOR THE COUNCIL OF THE GOVERNOR GENERAL AT MEETINGS FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS.



PRINTED FOR THE USE OF ADDITIONAL MEMBERS OF COUNCIL.



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THE .

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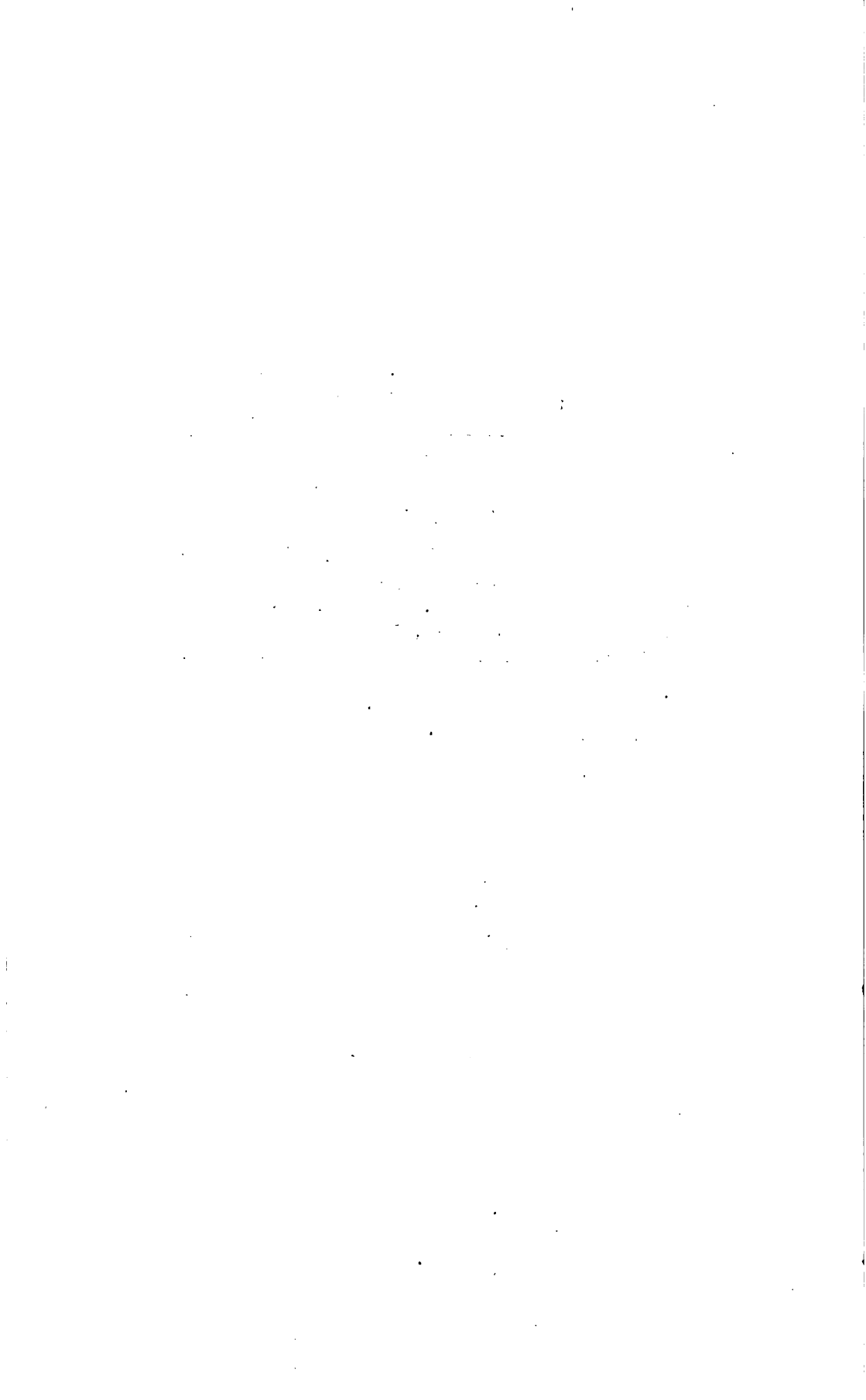
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HENRY MORSE STEPHENS

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Prefatory Note.

The "Rules for the Conduct of the Legislative Business of the Council of the Governor General" were consolidated and amended in February, 1897. A revised edition of those Rules, together with the Indian Councils Acts, 1861 and 1892, and the Notifications relating to the Financial Statement, Questions, and the Nomination of Additional Members, may be of service to Members of the Legislative Council.

In the present edition side notes have been appended to the Rules, some further foot-notes have been added to the Acts, and a brief index to the whole has been inserted at the end.

2. The powers of the Governor General's Legislative Council are both territorial and extra-territorial. Its territorial powers may be summarised as follows :—

Extent of
powers.

Subject to the Secretary of State's power of disallowance, and subject to the exceptions hereafter specified, the Council may make laws for all persons, for all Courts, and for all places and things within British India (24 & 25 Vict., c. 67, s. 22). The laws so made have the force and effect of Acts of Parliament. See 3 & 4 Will. 4, c. 85, s. 45; *Empress v. Burah* (1878), L. R. 5 I. A. 178*; and *Alter Kaufman v. Government of Bombay* (1894), I. L. R. 18 Bom. 636; but note *Damodhar Gorahan v. Deoram Kanji* (1875), I. L. R. 1 Bom. 367, and L. R. 3 I. A. 102,† where the effect of s. 113 of the Indian Evidence Act, 1872, is discussed.‡

As to legislation for territorial waters, see the Transport of Salt Act, 1879 (XVI of 1879), and the Obstruction in Fairways Act, 1881 (XVI of 1881); also the Proceedings in Council, Gazette of India, 1879, Sup., p. 1224, and Gazette of India, 1881, Sup., p. 19, and *ante*, p. 7.

* Reported also in I. L. R. 4 Cal. 172 and 3 C. L. R. 197.

† Known as the *Bhainagar Case*.

‡ There is a presumption that the laws and regulations of the Governor General in Council are known to Parliament - *Ab Julla v. Mohan Gir* (1889), I. L. R. 11 All. 490.

Its extra-territorial powers may be summarised as follows :—

Subject to the like restrictions, the Legislative Council may—

- (a) make articles of war for native officers and soldiers wherever they may be serving (3 & 4 Will. 4, c. 5, s. 73) ;
- (b) make laws for all servants of Government " within the dominions of Princes and States in alliance with Her Majesty " (24 & 25 Vict., c. 67, s. 22) ;
- (c) make laws for "all British subjects within the dominions of Princes and States *in India* in alliance with Her Majesty " (28 & 29 Vict., c. 17, s. 1) ;
- (d) make laws for Native Indian subjects anywhere, beyond or without British India (32 & 33 Vict., c. 98, s. 1) ; and,
- (e) under certain conditions, make laws for all persons serving in the Indian Marine Service in Indian waters, as defined by the Indian Marine Service Act, 1884 (47 & 48 Vict., c. 38).

There are also certain Acts of Parliament enabling the legislatures of British possessions to deal with special subjects which may involve extra-territorial legislation ; see, for example, the Extradition Act, 1870 (33 & 34, Vict., c. 52), ss. 18 and 23 ; the Slave Trade Act, 1876 (39 & 40 Vict., c. 46), s. 2 ; the Fugitive Offenders Act, 1881 (44 & 45 Vict., c. 69), s. 32 ; the Colonial Courts of Admiralty Act, 1890 (53 & 54 Vict., c. 27) ; the Colonial Probates Act, 1892 (55 Vict., c. 6), s. 1 ; and the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60), ss. 735 and 736.

Restrictions.

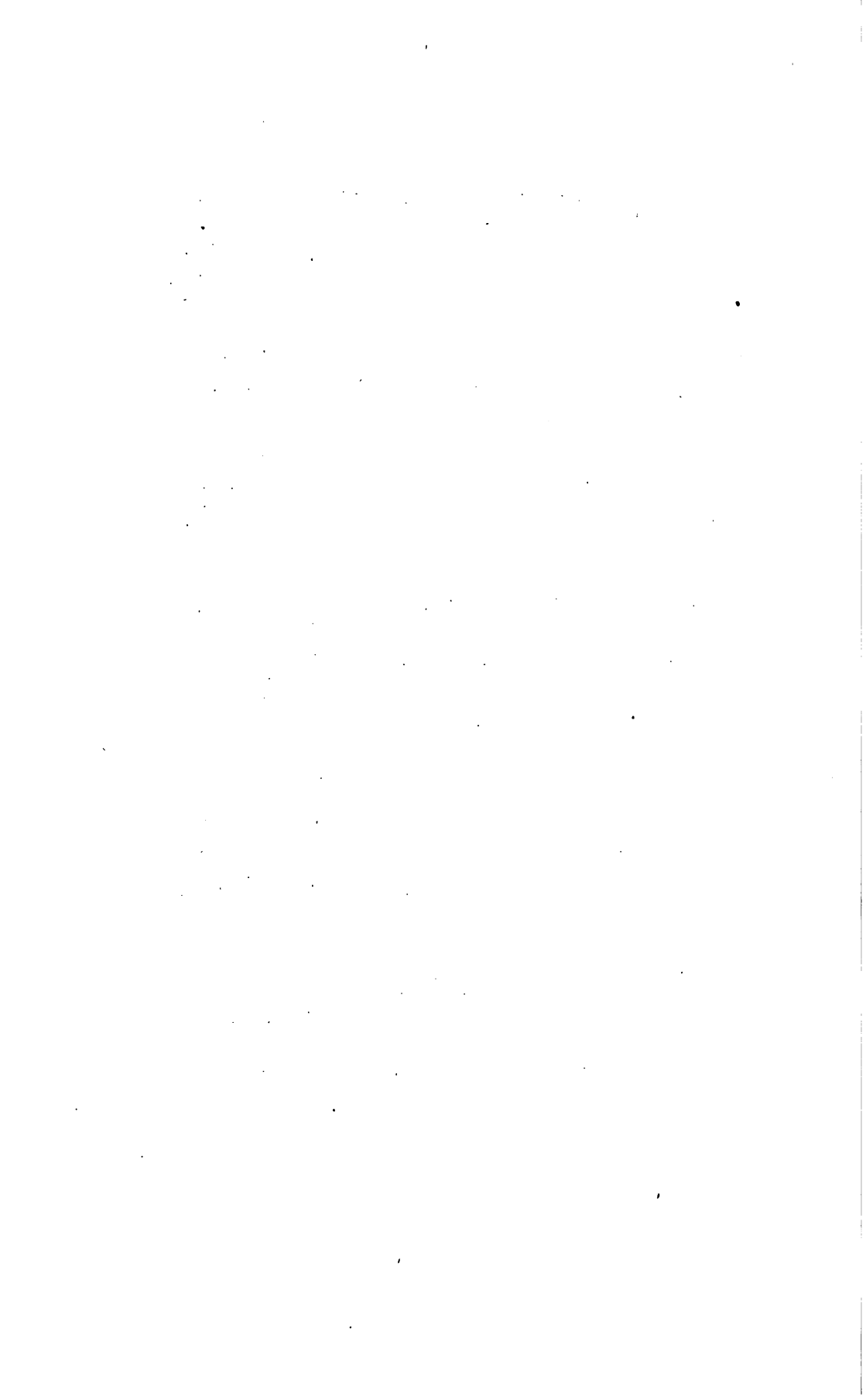
3. The restrictions on the powers of the Indian legislature are that it cannot make laws repealing or affecting the unrepealed provisions of the following Statutes made prior to 1861 ; namely, the Government of India Act, 1833 (3 & 4 Will. 4, c. 85), except ss. 81 to 86 ; the Government of India Act,

1853 (16 & 17 Vict., c. 95); the Government of India Act, 1854 (17 & 18 Vict., c. 77); the Government of India Act, 1858 (21 & 22 Vict., c. 106); the Government of India Act, 1859 (22 & 23 Vict., c. 41); nor can it repeal or affect any Act of Parliament passed after 1860 which in any wise relates to India. Among the Acts which it cannot touch, is the Army Act (44 & 45 Vict., c. 58), but express power to alter s. 136 of that Act (deductions from pay) is given by s. 4 of the Army (Annual) Act, 1895 (58 Vict., c. 7).

Further, the Indian legislature cannot pass any Act which "may affect the authority of Parliament, *or the constitution and rights of the East India Company*, or any part of the unwritten laws or constitution of the United Kingdom of Great Britain or Ireland, whereon may depend in any degree the allegiance of any person to the Crown of the United Kingdom or the sovereignty or dominion of the Crown over any part of the said territories" (24 & 25 Vict., c. 67, s. 22.) As the government of India was transferred to the Crown in 1858, the words in italics are somewhat obscure; but they may probably be explained by the fact that the East India Company was not finally dissolved till 1874. It may be noted that any Act giving power to any Court, other than a Chartered High Court, to sentence European British subjects to death requires the previous sanction of the Secretary of State (3 & 4 Will. 4, c. 85, s. 46, and 47 & 48 Vict., c. 38, s. 5); and Bills relating to the debt or revenues of India, religion, army discipline or foreign relations require the previous sanction of the Governor General (24 & 25 Vict., c. 67, s. 19).

M. D. C.

March, 1898.



THE INDIAN COUNCILS ACT, 1861 (24 & 25 VICT., C. 67).

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24 & 25 VICT., CAP. 67.

An Act to make better provision for the constitution of the Council of the Governor General of India, and for the Local Government of the several Presidencies and Provinces of India, and for the temporary Government of India in the event of a Vacancy in the Office of Governor General.

[1ST AUGUST, 1861.]

[*Preamble rep. 55 and 56, Vict., c. 19.*]

1. This Act may be cited for all Purposes as " The Short title.
Indian Councils Act, 1861. "¹

2. * * * * *

All other enactments whatsoever now in force with relation to the Council of the Governor General of India, or to the Councils of the Governors of the respective Presidencies of Fort St. George and Bombay, shall, save so far as the same are altered by or are repugnant to this Act, continue in force, and be applicable to the Council of the Governor General of India and the Councils of the respective Presidencies under this Act. Enactments continued in force.

3. There shall be five ² ordinary members of the said Council of the Governor General, three of whom shall from time to time be appointed * * * Composition of the Council of the Governor General of India.

* * * ⁴ from among such persons as shall have been, at the time of such appointment in the service in India of the Crown, or of the Company and the Crown for at least ten years, and if the person so appointed shall be in the military service of the Crown, he shall not, during his continuance in office as a member of Council, hold any military command, or be employed in actual military duties, and the remaining two, one of whom shall be a barrister or a member of the Faculty of Advocates in Scotland of not less than five years' standing, shall be appointed from time to time by Her Majesty by warrant under

¹ This Act and the Indian Councils Act, 1892, may be cited together as the Indian Councils Acts, 1861 and 1892—see the Indian Councils Act, 1892, s. 8, *post*, p. 32.

² The earlier part of this section repealed certain enactments and was itself repealed by the 55 and 56, Vict., c. 19.

³ The number may be increased to six—see the Indian Councils Act, 1874 (37 & 38 Vict., c. 91).

⁴ The words " by the Secretary of State for India in Council, with the concurrence of a majority of members present at a meeting " were repealed by the 41 & 42 Vict., c. 79 [S.L.R.]

Her Royal Sign Manual ; and it shall be lawful for the Secretary of State in Council to appoint the Commander-in-Chief of Her Majesty's Forces in India to be an extraordinary member of the said Council, and such extraordinary member of Council shall have rank and precedence at the Council Board next after the Governor General.

Present
members of
Council to
continue.

Appointment of
fifth member
and salaries of
members, etc.

4. The present ordinary members of the Council of the Governor General of India shall continue to be ordinary members under and for the purposes of this Act; and it shall be lawful for Her Majesty to appoint by warrant as aforesaid an ordinary member of Council to complete the number of five hereby established ; and there shall be paid to such ordinary member and to all other ordinary members who may be hereafter appointed, such amount of salary as may from time to time be fixed for members of the Council of the Governor General by the Secretary of State in Council, with the concurrence of a majority of members of Council present at a meeting, and all enactments of any Act of Parliament or law of India respecting the Council of the Governor General of India and the members thereof shall be held to apply to the said Council as constituted by this Act, except so far as they are repealed by or are repugnant to any provisions of this Act.

Provisional
appointments
of members
of Council.

5. It shall be lawful for the Secretary of State in Council, with the concurrence of a majority of members present at a meeting, and for Her Majesty, by warrant as aforesaid, respectively, to appoint any person provisionally to succeed to the office of ordinary member of the Council of the Governor General, when the same shall become vacant by the death or resignation of the person holding the said office, or on his departure from India with intent to return to Europe, or on any event and contingency expressed in any such provisional appointment and such appointment again to revoke ; but no person so appointed to succeed provisionally to such office shall be entitled to any authority, salary, or emolument appertaining thereto until he shall be in the actual possession of such office.

Provisions
during absence
of Governor;
General in
other parts of
India.

6. Whenever the said Governor General in Council shall declare that it is expedient that the said Governor General should visit any part of India unaccompanied by his Council, it shall be lawful for the said Governor General in Council, previously to the departure of the said Governor General, to nominate some member of the said Council to be president of the said Council, in whom, during the time of such visit, the powers of the said Governor General in assemblies of the said Council shall be reposed, except that of assenting to or withholding his assent from, or reserving for the signification of Her Majesty's pleasure, any law or regulation as hereinafter provided; and it shall be lawful in every such case for the said Governor

General in Council, by an order for that purpose to be made, to authorize the Governor General alone to exercise all or any of the powers which might be exercised by the said Governor General in Council in every case in which the said Governor General may think it expedient to exercise the same, except the power of making laws or regulations.

7. Whenever the Governor General, or such president so nominated as aforesaid, shall be obliged to absent himself from any meeting of Council (other than meetings for the purpose of making laws and regulations, as hereinafter provided), owing to indisposition or any other cause whatsoever, and shall signify his intended absence to the Council, then and in every such case the senior member for the time being who shall be present at such meeting shall preside thereat, in such manner, and with such full powers and authorities during the time of such meeting, as such Governor General or president would have had in case he had been present at such meeting: Provided always, that no Act of Council made at any such meeting shall be valid to any effect whatsoever unless the same shall be signed by such Governor General or president, respectively, if such Governor General or president shall at the time be resident at the place at which such meeting shall be assembled, and shall not be prevented by such indisposition from signing the same: Provided always, that in case such Governor General or president, not being so prevented as aforesaid, shall decline or refuse to sign such Act of Council, he, and the several members of Council who shall have signed the same, shall mutually exchange with and communicate in writing to each other the grounds and reasons of their respective opinions, in like manner and subject to such regulations and ultimate responsibility as are by the East India Company Act, 1793, sections forty-seven, forty-eight, forty-nine, fifty and fifty-one, provided and described in cases where such Governor General shall, when present, dissent from any measure proposed or agitated in the Council.

Provisions in case of absence of Governor General, &c., from meeting of Council.

33 Geo. 3. c. 52.
ss. 47 to 51.

8. It shall be lawful for the Governor General from time to time to make rules and orders for the more convenient transaction of business in the said Council; and any order made or act done in accordance with such rules and orders (except as hereafter provided respecting laws and regulations) shall be deemed to be the order or act of the Governor General in Council.

Power of Governor General to make rules for conduct of business.

9. The said Council shall from time to time assemble at such place or places as shall be appointed by the Governor General in Council within the territories of India; and as often as the said Council shall assemble within either of the Presidencies of Fort St. George or

Council where to assemble.

Bombay, the Governor of such Presidency shall act as an extraordinary member of Council; and as often as the said Council shall assemble within any other division, province, or territory having a Lieutenant-Governor, such Lieutenant-Governor shall act as an additional councillor at meetings of the Council, for the purpose of making laws and regulations only, in manner hereinafter provided.¹

Additional members to be summoned for the purpose of making laws and regulations.

10. For the better exercise of the power of making laws and regulations vested in the Governor General in Council, the Governor General shall nominate, in addition to the ordinary and extraordinary members above mentioned, and to such Lieutenant-Governor in the case aforesaid, such persons not less than six nor more than twelve² in number, as to him may seem expedient, to be members of Council for the purpose of making laws and regulations only, and such persons shall not be entitled to sit or vote at any meeting of Council, except at meetings held for such purpose: Provided that not less than one-half of the persons so nominated shall be non-official persons, that is, persons who, at the date of such nomination, shall not be in the civil or military service of the Crown in India; and that the seat in Council of any non-official member accepting office under the Crown in India shall be vacated on such acceptance.

Such members to be appointed for two years.

11. Every additional member of Council so nominated shall be summoned to all meetings held for the purpose of making laws and regulations, for the term of two years from the date of such nomination.

Resignation of additional members.

12. It shall be lawful for any such additional member of Council to resign his office to the Governor General, and on acceptance of such resignation by the Governor General such office shall become vacant.

[S. 13 *rep.* 55 & 56 *Vict.*, c. 14, s. 4.]

No law to be invalid by reason of number of non-official members being incomplete.

14. No law or regulation made by the Governor General in Council, in accordance with the provisions of this Act, shall be deemed invalid by reason only that the proportion of non-official additional members hereby provided was not complete at the date of its introduction to the Council or its enactment.

Senior ordinary member of Council to preside at meetings for making laws and regulations in absence of Governor General, etc. Quorum.

15. In the absence of the Governor General and of the president, nominated as aforesaid, the senior ordinary member of the Council present shall preside at meetings of the Council for making laws and regulations; and the power of making laws and regulations vested in the Governor General in Council shall be exercised only at meetings

¹ As to other Lieutenant-Governors and Chief Commissioners, see the Government of India Act, 1870 (33 *Vict.*, c. 3), s. 3.

² Now, not less than ten nor more than sixteen—see the Indian Councils Act, 1892, s. 1 (1), *post*, p. 29.

of the said Council at which such Governor General or president or some ordinary member of Council, and six or more members of the said Council (including under the term members of the Council such additional members as aforesaid), shall be present; and in every case of difference of opinion at meetings of the said Council for making laws and regulations where there shall be an equality of voices, the Governor General, or in his absence the president, and in the absence of the Governor General and president such senior ordinary member of Council there presiding, shall have two votes or the casting vote.

[S. 16 rep. 55 & 46 Vict., c. 19. (S. L. R.).]

17. It shall be lawful for the Governor General in Council from time to time to appoint all * *¹ times and places of meeting of the Council for the purpose of making laws and regulations under the provisions of this Act, and to adjourn, or from time to time to authorize such president, or senior ordinary member of Council in his absence, to adjourn, any meeting for the purpose of making laws and regulations from time to time and from place to place.

Power to appoint and adjourn meetings for making laws and regulations.

18. It shall be lawful for the Governor General in Council to make rules for the conduct of business at meetings of the Council for the purpose of making laws and regulations under the provisions of this Act, prior to the first of such meetings, but such rules may be subsequently amended at meetings for the purpose of making laws or regulations, subject to the assent of the Governor General, and such rules shall prescribe the mode of promulgation and authentication of such laws and regulations: ² Provided always that it shall be lawful for the Secretary of State in Council to disallow any such rule, and to render it of no effect.

Rules for conduct of business at such meetings.

19. No business shall be transacted at any meeting for the purpose of making laws and regulations, except as last hereinbefore provided other than the consideration and enactment of measures introduced into the Council for the purpose of such enactment, and it shall not be lawful for any member or additional member to make or for the Council to entertain any motion, unless such motion be for leave to introduce some measure as aforesaid into Council, or have reference to some measure actually introduced thereinto: Provided always that it shall not be lawful for any member or additional member to introduce, without the previous sanction of the Governor General, any measure affecting—

Business to be transacted at such meetings.

- 1st. The public debt or public revenues of India, or by which any charge would be imposed on such revenues:

¹ The word "other" was repealed by 55 & 56 Vict., c. 19.

² See the rules so made, *post*, p. 35.

- 2nd. The religion or religious rites and usages of any class of Her Majesty's subjects in India :
- 3rd. The discipline or maintenance of any part of Her Majesty's military or naval forces :
- 4th. The relations of the Government with foreign princes or states.

Assent of Governor General to laws and regulations made at such meetings.

20. When any law or regulation has been made by Council at a meeting for the purpose of making laws and regulations as aforesaid, it shall be lawful for the Governor General, whether he shall or shall not have been present in Council at the making thereof, to declare that he assents to the same, or that he withholds his assent from the same, or that he reserves the same for the signification of the pleasure of Her Majesty thereon ; and no such law or regulation shall have validity until the Governor General shall have declared his assent to the same, or until (in the case of a law or regulation so reserved as aforesaid) Her Majesty shall have signified Her assent to the same to the Governor General, through the Secretary of State for India in Council, and such assent shall have been duly proclaimed by the said Governor General.

Power of the Crown to disallow laws and regulations made at such meetings.

21. Whenever any such law or regulation has been assented to by the Governor General, he shall transmit to the Secretary of State for India an authentic copy thereof, and it shall be lawful for Her Majesty to signify, through the Secretary of State for India in Council, Her disallowance of such law ; and such disallowance shall make void and annul such law from or after the day on which the Governor General shall make known, by proclamation or by signification, to his Council that he has received the notification of such disallowance by Her Majesty.

Extent of the powers of the Governor General in Council to make laws and regulations at such meetings.

22. The Governor General in Council shall have power at meetings for the purpose of making laws and regulations as aforesaid, and subject to the provisions hereinafter contained, to make laws and regulations for repealing, amending, or altering any laws or regulations whatever, now in force or hereafter to be in force in the Indian territories now [or hereafter]¹ under the dominion of Her Majesty, and to make laws and regulations for all persons, whether British or Native, foreigners or others, and for all courts of justice whatever, and for all places and things whatever, within the said territories, and for all servants of the Government of India within the dominions

¹ These words were inserted, with retrospective effect, by 55 & 56 Vict., 14, s. 3, *post* p. 30-31.

of princes and states in alliance with Her Majesty¹ and the laws and regulations so to be made by the Governor General in Council shall control and supersede any laws and regulations in anywise repugnant thereto which shall have been made prior thereto by the Governors of the Presidencies of Fort St. George and Bombay respectively in Council, or the Governor or Lieutenant-Governor in Council of any presidency or other territory for which a Council may be appointed, with power to make laws and regulations under and by virtue of this Act: Provided always, that the said Governor General in Council shall not have the power of making any laws and regulations which shall repeal or in any way affect any of the provisions of this Act:

3 & 4 Will. 4,
c. 85,
16 & 17 Vict., c.
95,
17 & 18 Vict., c.
77.

Or any of the provisions of the Government of India Act, 1833, and of the Government of India Act, 1853, and of the Government of India Act, 1854, which after the passing of this Act shall remain in force:

21 & 22 Vict.,
c. 106,
23 & 24 Vict.,
c. 47.

Or any provisions of the Government of India Act, 1858, or of the Government of India Act, 1859:

Or of any Act enabling the Secretary of State in Council to raise money in the United Kingdom for the Government of India:

Or of the Acts for punishing mutiny and desertion in Her Majesty's army or in Her Majesty's Indian forces respectively; but subject to the provision contained in the Government of India Act, 1833, section seventy-three, respecting the Indian Articles of War:

3 & 4 Will. 4,
c. 85.

Or any provisions of any Act passed in this present session of Parliament, or hereafter to be passed, in anywise affecting Her Majesty's Indian territories, or the inhabitants thereof:

Or which may affect the authority of Parliament, or the constitution and rights of the East India Company, or any part of the unwritten laws or constitution of the United Kingdom of Great

¹ Further powers have been conferred by the following enactments:—
28 & 29 Vict., c. 17, s. 1.—“The Governor General of India shall have power, at meetings for the purpose of making laws and regulations to make laws and regulations for all British subjects of Her Majesty within the dominions of princes and states in India in alliance with Her Majesty, whether in the service of the Government of India or otherwise.”

32 & 33 Vict., c. 98, s. 1.—“From and after the passing of this Act the Governor General of India in Council shall have power at meetings for the purpose of making laws and regulations to make laws and regulations for all persons being native Indian subjects of Her Majesty, Her heirs and successors, without and beyond as well as within the Indian territories under the dominion of Her Majesty.”

Britain and Ireland, whereon may depend in any degree the allegiance of any person to the Crown of the United Kingdom, or the sovereignty or dominion of the Crown over any part of the said territories.

Governor General may make ordinances having force of law in cases of urgent necessity.

23. Notwithstanding anything in this Act contained, it shall be lawful for the Governor General, in cases of emergency, to make and promulgate from time to time ordinances for the peace and good government of the said territories or of any part thereof, subject however to the restrictions contained in the last preceding section; and every such ordinance shall have like force of law with a law or regulation made by the Governor General in Council as by this Act provided, for the space of not more than six months from its promulgation, unless the disallowance of such ordinance by Her Majesty shall be earlier signified to the Governor General by the Secretary of State for India in Council, or unless such ordinance shall be controlled or superseded by some law or regulation made by the Governor General in Council at a meeting for the purpose of making laws and regulations as by this Act provided.

No law, &c., invalid by reason of it affecting any prerogative of the Crown.

24. No law or regulation made by the Governor General in Council (subject to the power of disallowance by the Crown, as hereinbefore provided) shall be deemed invalid by reason only that it affects the prerogative of the Crown.

Laws made for the non-regulation provinces declared valid.

25. Whereas doubts have been entertained whether the Governor General of India, or the Governor General of India in Council, had the power of making rules, laws, and regulations for the territories known from time to time as "non-regulation provinces," except at meetings for making laws and regulations, in conformity with the provisions of the Government of India Act, 1833, and of the Government of India Act, 1853, and whether the Governor, or Governor in Council, or Lieutenant-Governor of any Presidency or part of India, had such power in respect of any such territories: Be it enacted that no rule, law, or regulation which prior to the passing of this Act shall have been made by the Governor General, or Governor General in Council, or by any other of the authorities aforesaid, for and in respect of any such non-regulation province, shall be deemed invalid only by reason of the same not having been made in conformity with the provisions of the said Acts, or of any other Act of Parliament respecting the constitution and powers of the Council of India, or of the Governor General, or respecting the powers of such Governors or Governors in Council, or Lieutenant-Governors as aforesaid.

3 & 4 Will. 4.
c. 85.
16 & 17 Vict.
c. 95.

26. It shall be lawful for the Governor General in Council, or Governor in Council, of either of the Presidencies, as the case may be, to grant to an ordinary member of Council leave of absence, under medical certificate, for a period not exceeding six months; and such member, during his absence, shall retain his office, and shall, on his return and resumption of his duties, receive half his salary for the period of such absence, but if his absence shall exceed six months, his office shall be vacated.

Provision for leave of absence to an ordinary member of Council.

27. If any vacancy shall happen in the office of an ordinary member of the Council of the Governor General, or of the Council of either of the Presidencies, when no person provisionally appointed to succeed thereto shall be then present on the spot, then, and on every such occasion, such vacancy shall be supplied by the appointment of the Governor General in Council, or the Governor in Council as the case may be; and, until a successor shall arrive the person so nominated shall execute the office to which he shall have been appointed, and shall have all the powers thereof, and shall have and be entitled to the salary and other emoluments and advantages appertaining to the said office during his continuance therein, every such temporary member of Council foregoing all salaries and allowances by him held and enjoyed at the time of his being appointed to such office; and if any ordinary member of the Council of the Governor General or of the Council of either of the Presidencies shall, by any infirmity or otherwise, be rendered incapable of acting or of attending to act as such, or if any such member shall be absent on leave, and if any person shall have been provisionally appointed as aforesaid, then the place of such member absent or unable to attend shall be supplied by such person; and if no person provisionally appointed to succeed to the office shall be then on the spot, the Governor General in Council, or Governor in Council, as the case may be, shall appoint some person to be a temporary member of Council, and until the return of the member so absent or unable to attend, the person so provisionally appointed by the Secretary of State in Council, or so appointed by the Governor General in Council, or Governor in Council, as the case may be, shall execute the office to which he shall have been appointed, and shall have all the powers thereof, and shall receive half the salary of the member of Council whose place he supplies, and also half the salary of his office under the Government of India, or the Government of either of the Presidencies, as the case may be, if he hold any such office, the remaining half of such last-named salary being at the disposal of Government of India, or other Government as aforesaid: Provided always, that no person shall be appointed a

Power of making temporary appointments of members of Council, &c.

temporary member of the said Council who might not have been appointed as hereinbefore provided to fill the vacancy supplied by such temporary appointment.

Governors of Fort St. George and Bombay may make rules for the conduct of business in their Councils.

28. It shall be lawful for the Governors of the Presidencies of Fort St. George and Bombay respectively from time to time to make rules and orders for the conduct of business in their Councils, and any order made or act done in accordance with such directions (except as hereinafter provided respecting laws and regulations) shall be deemed to be the order or act of the Governor in Council.

Power to summon additional members to the Councils of Fort Saint George and Bombay for the purpose of making laws and regulations.

29. For the better exercise of the power of making laws and regulations hereinafter vested in the Governors of the said Presidencies in Council respectively, each of the said Governors shall, in addition to the members whereof his Council now by law consists, or may consist, termed herein ordinary members, nominate to be additional members, the Advocate General of the Presidency, or officer acting in that capacity, and such other persons, not less than four nor more than eight in number¹, as to him may seem expedient to be members of Council, for the purpose of making laws and regulations only, and such members shall not be entitled to sit or vote at any meeting of Council, except at meetings held for such purpose: Provided that not less than half of the persons so nominated shall be non-official persons, as hereinbefore described, and that the seat in Council of any non-official member accepting office under the Crown in India shall be vacated on such acceptance.

Such members to be appointed for two years.

30. Every additional member of Council so nominated shall be summoned to all meetings held for the purpose of making laws and regulations for the term of two years from the date of such nomination.

Resignation of additional members.

31. It shall be lawful for any such additional member of Council to resign his office to the Governor of the Presidency, and on acceptance of such resignation by the Governor of the Presidency such office shall become vacant.

[S. 32 *rep.* 55 & 56 *Vict.*, c. 14, s. 4.]

No law to be invalid by reason of incompleteness of number of non-official members.

33. No law or regulation made by any such Governor in Council in accordance with the provisions of this Act shall be deemed invalid by reason only that the proportion of non-official additional members hereby established was not complete at the date of its introduction to the Council or its enactment.

¹ Now, not less than eight nor more than twenty—see the Indian Councils Act, 1892, s. 1 (*l. post*, p. 29.

34. At any meeting of the Council of either of the said Presidencies from which the Governor shall be absent, the senior civil ordinary member of Council present shall preside; and the power of making laws and regulations hereby vested in such Governor in Council shall be exercised only at meetings of such Council at which the Governor or some ordinary member of Council, and four or more members of Council (including under the term members of Council such additional members as aforesaid), shall be present; and in any case of difference of opinion at meetings of any such Council for making laws and regulations, where there shall be an equality of voices, the Governor, or, in his absence, the senior member then presiding, shall have two votes or the casting vote.

Senior civil ordinary member of Council to preside in absence of Governor of Presidency.

[S. 35 *rep.* 55 & 56 *Vict.*, c. 19 (S. L. R.).]

36. It shall be lawful for every such Governor to appoint all * * * times and places of meeting of his Council for the purpose of making laws and regulations under the provisions of this Act, and to adjourn or from time to time to authorize such senior ordinary member of Council in his absence to adjourn any meeting for making laws and regulations from time to time and from place to place.

Governors of Presidencies to appoint subsequent meetings, and adjourn them.

37. Previously to the first of such meetings, of their Councils for the purpose of making laws and regulations under the provisions of this Act, the Governors of the said Presidencies in Council respectively shall make rules for the conduct of business at such meetings subject to the sanction of the Governor General in Council; but such rules may be subsequently amended at meetings for the purpose of making laws and regulations, subject to the assent of the Governor: Provided always that it shall be lawful for the Governor General in Council to disallow any such rule, and render the same of no effect.

Rules and orders for conduct of business at such meetings.

38. No business shall be transacted at any meeting of the Council of either of the said Presidencies for the purpose of making laws and regulations (except as last hereinbefore provided) other than the consideration and enactment of measures introduced into such Council for the purpose of such enactment; and it shall not be lawful for any member or additional member to make, or for the Council to entertain, any motion, unless such motion shall be for leave to introduce some measure as aforesaid into Council, or have reference to some measure actually introduced thereinto: Provided always that it shall not be lawful for any member or additional member to introduce, without the previous sanction of the Governor, any measure affecting

Business to be transacted at such meetings.

* The word "subsequent" was repealed by 55 & 56 *Vict.*, c. 19.

the public revenues of the Presidency, or by which any charge shall be imposed on such revenues.

Governors to
assent to laws
and regula-
tions of
Presidencies.

39. When any law or regulation has been made by any such Council at a meeting for the purpose of making laws and regulations as aforesaid, it shall be lawful for the Governor, whether he shall or shall not have been present in Council at such meeting, to declare that he assents to, or withholds his assent from, the same.

Governor Gen-
eral to assent
to laws and
regulations of
Presidencies.

40. The Governor shall transmit forthwith an authentic copy of every law or regulation to which he shall have so declared his assent to the Governor General, and no such law or regulation shall have validity until the Governor General shall have assented thereto, and such assent shall have been signified by him to, and published by, the Governor: Provided always, that in every case where the Governor General shall withhold his assent from any such law or regulation, he shall signify to the Governor in writing his reason for so withholding his assent.

Power of the
Crown to dis-
allow laws and
regulations of
Presidencies.

41. Whenever any such law or regulation shall have been assented to by the Governor General, he shall transmit to the Secretary of State for India an authentic copy thereof; and it shall be lawful for Her Majesty to signify, through the Secretary of State for India in Council, her disallowance of such law or regulation, and such disallowance shall make void and annul such law or regulation from or after the day on which such Governor shall make known by proclamation, or by signification to the Council, that he has received the notification of such disallowance by Her Majesty.

Extent of power
of Governor of
Presidency in
Council to make
laws and
regulations.

42. The Governor of each of the said Presidencies in Council shall have power at meetings for the purpose of making laws and regulations as aforesaid, and, subject to the provisions herein contained, to make laws and regulations for the peace and good government of such Presidency and for that purpose to repeal and amend any laws and regulations made prior¹ to the coming into operation of this Act by any authority in India, so far as they affect such Presidency: Provided always, that such Governor in Council shall not have the power of making laws or regulations which shall in any way affect any of the provisions of this Act, or of any other Act of Parliament in force, or hereafter to be in force, in such Presidency.

¹ The local legislature of any province may now, with the previous sanction of the Governor General, repeal or amend as to that province any law or regulation made *either before or after* the passing of the Indian Councils Act, 1892, by any authority in India other than that local legislature—see the Indian Councils Act, 1892, s. 5, *post*, pp. 31-32.

43. It shall not be lawful for the Governor in Council of either of the aforesaid Presidencies, except with the sanction of the Governor General, previously communicated to him, to make regulations or take into consideration any law or regulation for any of the purposes next hereinafter mentioned; that is to say,

- (1) affecting the public debt of India, or the customs-duties, or any other tax or duty now in force and imposed by the authority of the Government of India for the general purposes of such Government:
- (2) regulating any of the current coin, or the issue of any bills, notes, or other paper currency:
- (3) regulating the conveyance of letters by the post office or messages by the electric telegraph within the Presidency:
- (4) altering in any way the Penal Code of India, as established by Act of the Governor General in Council, No. 42¹ of 1860:
- (5) affecting the religion or religious rites and usages of any class of Her Majesty's subjects in India:
- (6) affecting the discipline or maintenance of any part of Her Majesty's military or naval forces:
- (7) regulating patents or copyright:
- (8) affecting the relations of the Government with foreign princes or states:

Provided always, that no law or provision of any law or regulation which shall have been made by any such Governor in Council, and assented to by the Governor General as aforesaid, shall be deemed invalid only by reason of its relating to any of the purposes comprised in the above list.

44. The Governor General in Council, so soon as it shall appear to him expedient, shall, by proclamation, extend the provisions of this Act touching the making of laws and regulations for the peace and good government of the Presidencies of Fort Saint George and Bombay to the Bengal Division of the Presidency of Fort William; and shall specify in such proclamation the period at which such provisions shall take effect, and the number² of councillors whom the Lieutenant-Governor of the said division may nominate for his assistance in making laws and regulations; and it shall be further lawful for the Governor General in Council, from time to time and in his

Governor of Presidency except with sanction of Governor General, not to make or take into consideration certain laws or regulations for certain purposes.

Governor General may establish Councils for making laws and regulations in the Bengal Presidency, &c.

¹ See. Read "45".

² As to the number of Councillors for the Bengal Division of the Presidency of Fort William and for the North-Western Provinces and Oudh, see the Indian Councils Act, 1892, s. 1 (2), *post*, p. 29.

discretion, by similar proclamation, to extend the same provisions to the territories known as the North-Western Provinces and the Punjab respectively.

Constitution of
such Councils.

45. Whenever such proclamation as aforesaid shall have been issued regarding the said division or territories respectively, the Lieutenant-Governor thereof shall nominate, for his assistance in making laws and regulations, such number of councillors as shall be in such proclamation specified: Provided that not less than one-third of such councillors shall in every case be non-official persons, as hereinbefore described, and that the nomination of such councillors shall be subject to the sanction of the Governor General: And provided further, that at any meeting of any such Council from which the Lieutenant-Governor shall be absent, the member highest in official rank among those who may hold office under the Crown shall preside; and the power of making laws and regulations shall be exercised only at meetings at which the Lieutenant-Governor, or some member holding office as aforesaid, and not less than one-half of the members of Council so summoned as aforesaid, shall be present; and in any case of difference of opinion at any meetings of such Council for making laws and regulations, where there shall be an equality of voices, the Lieutenant-Governor, or such member highest in official rank as aforesaid then presiding, shall have two votes or the casting vote.

Power to constitute new provinces and appoint Lieutenant-Governors.

46. It shall be lawful for the Governor General, by proclamation as aforesaid, to constitute from time to time new provinces for the purposes of this Act, to which the like provisions shall be applicable; and further to appoint from time to time a Lieutenant-Governor to any province so constituted as aforesaid, and from time to time to declare and limit the extent of the authority of such Lieutenant-Governor, in like manner as is provided by the Government of India Act, 1854, respecting the Lieutenant-Governors of Bengal and the North-Western Provinces. ^{17 & 18 Vict., c. 77.}

Power to alter boundaries of Presidencies, &c., by proclamation.

47. It shall be lawful for the Governor General in Council, by such proclamation as aforesaid, to fix the limits of any presidency, division, province, or territory in India for the purposes of this Act, and further by proclamation to divide or alter from time to time the limits of any such presidency, division, province, or territory for the said purposes: Provided always that any law or regulation made by the Governor or Lieutenant-Governor in Council of any presidency, division, province, or territory shall continue in force in any part thereof which may be severed therefrom by any such proclamation until superseded by law or regulation of the Governor General in Council, or of the Governor or Lieutenant-Governor in

Council of the presidency, division, province, or territory to which such parts may become annexed.

48. It shall be lawful for every such Lieutenant-Governor in Council thus constituted to make laws for the peace and good government of his respective division, province, or territory; and, except as otherwise hereinbefore specially provided, all the provisions in this Act contained respecting the nomination of additional members for the purpose of making laws and regulations for the Presidencies of Fort Saint George and Bombay, and limiting the power of the Governors in Council of Fort Saint George and Bombay, for the purpose of making laws and regulations, and respecting the conduct of business in the meetings of such Councils for that purpose, and respecting the power of the Governor General to declare or withhold his assent to laws or regulations made by the Governors in Council of Fort Saint George and Bombay, and respecting the power of Her Majesty to disallow the same, shall apply to laws or regulations to be so made by any such Lieutenant-Governor in Council.

Powers of newly constituted Lieutenant-Governors in Council.

49. Provided always that no proclamation to be made by the Governor General in Council under the provisions of this Act, for the purpose of constituting any Council for the presidency, division, provinces, or territories hereinbefore named, or any other provinces, or for altering the boundaries of any presidency, division, province, or territory, or constituting any new province for the purpose of this Act, shall have any force or validity until the sanction of Her Majesty to the same shall have been previously signified by the Secretary of State in Council to the Governor General.

Previous assent of the Crown necessary to give validity to proclamation.

50. If any vacancy shall happen in the office of Governor General of India when no provisional successor shall be in India to supply such vacancy, then, and in every such case, the Governor of the Presidency of Fort Saint George or the Governor of the Presidency of Bombay, who shall have been first appointed to the office of Governor by Her Majesty, shall hold and execute the said office of Governor General of India and Governor of the Presidency of Fort William in Bengal until a successor shall arrive, or until some person in India shall be duly appointed thereto; and every such acting Governor General shall, during the time of his continuing to act as such, have and exercise all the rights and powers of Governor General of India, and shall be entitled to receive the emoluments and advantages appertaining to the office by him supplied, such acting Governor General foregoing the salary and allowances appertaining to the office of Governor to which he stands appointed, and such office of Governor shall be supplied

Provision for the supply of the office of Governor General in certain circumstances.

for the time during which such Governor shall act as Governor General, in the manner directed in section sixty-three of the Government of India Act, 1833.

3 & 4 Will. 4.
c. 85.

If it appears to Governor necessary to exercise powers before taking his seat in Council, he may make his appointment, &c., known by proclamation.

51. If, on such vacancy occurring, it shall appear to the Governor, who by virtue of this Act shall hold and execute the said office of Governor General, necessary to exercise the powers thereof before he shall have taken his seat in Council, it shall be lawful for him to make known by proclamation his appointment, and his intention to assume the said office of Governor General, and after such proclamation, and thenceforth until he shall repair to the place where the Council may assemble, it shall be lawful for him to exercise alone all or any of the powers which might be exercised by the Governor General in Council, except the power of making laws and regulations; and all acts done in the exercise of the said powers, except as aforesaid, shall be of the same force and effect as if they had been done by the Governor General in Council: Provided that all acts done in the said Council after the date of such proclamation, but before the communication thereof to such Council, shall be valid, subject nevertheless to revocation or alteration by such Governor who shall have so assumed the said office of Governor General; and from the date of the vacancy occurring until such Governor shall have assumed the said office of Governor General the provisions of section 62 of the Government of India Act, 1833, shall be and the same are declared to be applicable to the case.

Nothing in this Act shall derogate from the powers of the Crown or Secretary of State for India in Council.

52. Nothing in this Act contained shall be held to derogate from or interfere with (except as hereinbefore expressly provided) the rights vested in Her Majesty, or the powers of the Secretary of State for India in Council, in relation to the government of Her Majesty's dominions in India, under any law in force at the date of the passing of this Act; and all things which shall be done by Her Majesty, or by the Secretary of State as aforesaid, in relation to such government, shall have the same force and validity as if this Act had not been passed.

Meaning of term "in Council."

53. Wherever any act or thing is by this Act required or authorized to be done by the Governor General or by the Governors of the Presidencies of Fort Saint George and Bombay in Council, it is not required that such act or thing should be done at a meeting for making laws and regulations, unless where expressly provided.

[S. 54 rep. 38 & 39 Vict., c. 66 (S.L.R.).]

THE INDIAN COUNCILS ACT, 1892 (55 & 56
VICT., C. 14).

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SECTIONS.

1. Provisions for increase of number of members of Indian Councils for making laws and regulations.
2. Modification of provisions of 24 & 25 Vict., c. 67, as to business at legislative meetings.
3. Meaning of 24 & 25 Vict., c. 67, s. 22, 3 & 4 Will. 4, c. 85, and 16 & 17 Vict., c. 95.
4. Repeal.
Power to fill up vacancy in number of additional members.
5. Powers of Indian provincial legislatures.

55 & 56 Vict., Cap. 14.

An Act to amend the Indian Councils Act, 1861.

[20TH JUNE, 1892.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. (1) The number of additional members of Council nominated by the Governor General under the provisions of section 10 of the Indian Councils Act, 1861, shall be such as to him may seem from time to time expedient, but shall not be less than ten or more than sixteen; and the number of additional members of Council nominated by the Governors of the Presidencies of Fort St. George and Bombay respectively under the provisions of section 29 of the Indian Councils Act, 1861, shall (besides the Advocate General of the Presidency or officer acting in that capacity) be such as to the said Governors respectively may seem from time to time expedient, but shall not be less than eight nor more than twenty.

Provisions for increase of number of members of Indian Councils for making laws and regulations—24 & 25 Vict., c. 67.

(2) It shall be lawful for the Governor General in Council by proclamation from time to time to increase the number of councillors whom the Lieutenant-Governors of the Bengal Division of the Presidency of Fort William and of the North-Western Provinces and Oudh respectively may nominate for their assistance in making laws and regulations: Provided always, that not more than twenty shall be nominated for the Bengal Division, and not more than fifteen for the North-Western Provinces and Oudh.

(3) Any person resident in India may be nominated an additional member of Council under sections 10 and 29 of the Indian Councils Act, 1861, and this Act, or a member of the Council of the Lieutenant-Governor of any province to which the provisions of the Indian Councils Act, 1861, touching the making of laws and regulations, have been or are hereafter extended or made applicable.

(4) The Governor General in Council may from time to time, with the approval of the Secretary of State in Council, make regulations as to the conditions under which such nominations, or any of them, shall be made by the

Governor General, Governors, and Lieutenant-Governors, respectively, and prescribe the manner in which such regulations shall be carried into effect. ¹

Modification
of provisions
of 24 & 25
Vict., c. 67,
as to business
at legislative
meetings.

2. Notwithstanding any provision in the Indian Councils Act, 1861, the Governor General of India in Council may from time to time make rules authorising at any meeting of the Governor General's Council for the purpose of making laws and regulations the discussion of the annual financial statement of the Governor General in Council and the asking of questions, but under such conditions and restrictions, as to subject or otherwise, as shall be in the said rules prescribed or declared ²: and notwithstanding any provisions in the Indian Councils Act, 1861, the Governors in Council of Fort St. George and Bombay, respectively, and the Lieutenant-Governor of any province to which the provisions of the Indian Councils Act, 1861, touching the making of laws and regulations, have been or are hereafter extended or made applicable, may from time to time make rules for authorising at any meeting of their respective Councils for the purpose of making laws and regulations the discussion of the annual financial statement of their respective Local Governments, and the asking of questions, but under such conditions and restrictions, as to subject or otherwise, as shall in the said rules applicable to such Councils respectively be prescribed or declared. But no member at any such meeting of any Council shall have power to submit or propose any resolution, or to divide the Council in respect of any such financial discussion, or the answer to any question asked under the authority of this Act, or the rules made under this Act: Provided that any rule made under this Act by a Governor in Council, or by a Lieutenant-Governor, shall be submitted for and shall be subject to the sanction of the Governor General in Council, and any rule made under this Act by the Governor General in Council shall be submitted for and shall be subject to the sanction of the Secretary of State in Council: Provided also, that rules made under this Act shall not be subject to alteration or amendment at meetings for the purpose of making laws and regulations.

Meaning of
24 & 25 Vict.,
c. 67, s. 22,
3 & 4 Will. 4,
c. 85, and
16 & 17 Vict.,
c. 95.

3. It is hereby declared that in the twenty-second section of the Indian Councils Act, 1861, it was and is intended that the words "Indian territories now under the dominion of Her Majesty" should be read and construed as if the words "or hereafter" were and had at the time of the passing of the said Act been inserted next after th

¹ See notification under this power, *post*, p. 49.

² See the rules so made, *post*, p. 45.

word "now"; and further, that the Acts third and fourth William the Fourth, chapter eighty-five, and sixteenth and seventeenth Victoria, chapter ninety-five, respectively, shall be read and construed as if at the date of the enactment thereof respectively it was intended and had been enacted that the said Acts respectively should extend to and include the territories acquired after the dates thereof respectively by the East India Company, and should not be confined to the territories at the dates of the said enactments respectively in the possession and under the Government of the said Company.

4. Sections thirteen and thirty-two of the Indian Councils Act, 1861, are hereby repealed, and it is enacted that—

Repeal.
Power to fill up vacancy in number of additional members.

(1) If any additional member of Council, or any member of the Council of a Lieutenant-Governor, appointed under the said Act or this Act, shall be absent from India or unable to attend to the duties of his office for a period of two consecutive months, it shall be lawful for the Governor General, the Governor, or the Lieutenant-Governor, to whose Council such additional member or member may have been nominated (as the case may be) to declare, by a notification published in the Government Gazette, that the seat in Council of such person has become vacant :

(2) In the event of a vacancy occurring by the absence from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, of any such additional member or member of the Council of a Lieutenant-Governor, it shall be lawful for the Governor General, for the Governor, or for the Lieutenant-Governor, as the case may be, to nominate any person as additional member or member, as the case may be, in his place ; and every member so nominated shall be summoned to all meetings held for the purpose of making laws and regulations for the term of two years from the date of such nomination : Provided always that it shall not be lawful by such nomination, or by any other nomination made under this Act, to diminish the proportion of non-official members directed by the Indian Councils Act, 1861, to be nominated.

5. The local legislature of any province in India may from time to time, by Acts passed under and subject to the provisions of the Indian Councils Act, 1861, and with the previous sanction of the Governor General, but not

Powers of Indian provincial legislatures.

otherwise, repeal or amend as to that province any law or regulation made either before or after the passing of this Act by any authority in India other than that local legislature: Provided that an Act or a provision of an Act, made by a local legislature, and subsequently assented to by the Governor General in pursuance of the Indian Councils Act, 1861, shall not be deemed invalid by reason only of its requiring the previous sanction of the Governor General under this section.

Definitions.

6. In this Act—

The expression "local legislature" means—

- (1) the Governor in Council for the purpose of making laws and regulations of the respective provinces of Fort St. George and Bombay; and
- (2) the Council for the purpose of making laws and regulations of the Lieutenant-Governor of any province to which the provisions of the Indian Councils Act, 1861, touching the making of laws or regulations, have been or are hereafter extended or made applicable:

the expression "province" means any Presidency, division, province, or territory over which the powers of any local legislature for the time being extend.

Saving of
powers of
Governor
General in
Council.

Short title.

7. Nothing in this Act shall detract from or diminish the powers of the Governor General in Council at meetings for the purpose of making laws and regulations.

8. This Act may be cited as the Indian Councils Act, 1892; and the Indian Councils Act, 1861, and this Act may be cited together as the Indian Councils Acts, 1861 and 1892.

**RULES FOR THE CONDUCT OF THE LEGIS-
LATIVE BUSINESS OF THE COUNCIL OF
THE GOVERNOR GENERAL.**

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Rules for the Conduct of the Legislative Business of the Council of the Governor General made pursuant to Section 18 of the Indian Councils Act, 1861.

The following Rules for the Conduct of the Legislative Business of the Council of the Governor General of India were made by the Council of the Governor General assembled for the purpose of making Laws and Regulations at the meeting held on the fourth day of February, 1897, and received the assent of His Excellency the Governor General on the same day. [*Published under notification No. 3, dated 5th February, 1897, in the Gazette of India of the 6th idem, Part I, page 97.*]

I.—Preliminary.

1. These Rules supersede the Rules for the conduct of Business at the meetings of the Council made on the 11th day of February, 1873, and the 16th day of February 1883. Suppression of former rules.

2. In these Rules—

“Council” means the Council of the Governor General of India assembled for the purpose of making Laws and Regulations : Definition.

“President” means the Governor General or (during the time of his visit to any part of India unaccompanied by his Council) the President nominated by the Governor General in Council, under the Indian Councils Act, 1861, section 6 ; or in the absence of both the Governor General and the President so nominated, the senior Ordinary Member of Council present and presiding :

“Member” means a Member of the Council, whether ordinary, extraordinary or additional :

“Secretary” means the Secretary to the Government of India in the Legislative Department, and includes the Deputy Secretary and every person for the time being exercising the functions of the Secretary : and

“Local Government” includes a Chief Commissioner.

II.—Meetings of the Council.

3. The Council shall ordinarily meet at 11 A. M., and shall not prolong its sitting after 4 P. M., unless the President otherwise directs. Hours of sitting.

36 RULES FOR THE CONDUCT OF LEGISLATIVE BUSINESS.

Quorum. 4. The quorum shall be seven, including the President.

Members' places. 5. The Governor or Lieutenant-Governor and the Law Member shall sit where the President may direct.

Subject to any such direction, the Members shall sit in the following order, beginning from the right of the President :—

(1) The Commander-in-Chief.

(2) The Ordinary Members according to seniority.

(3) The Additional Members according to seniority.

Adjournments. 6. The President may adjourn, without any discussion or vote, any meeting or business, whether there be a quorum present or not, to any future day, or to any hour of the same day.

Points of order. 7. The President shall preserve order, and all points of order shall be decided by him, no discussion thereupon being allowed.

Members to speak sitting. 8. A Member desiring to make any observations on any subject before the Council shall address the President without rising from his chair.

Order of speeches. 9. On all matters brought before the Council, after the Member who makes a motion has spoken, each Member consecutively, beginning with the Member on the left of the President, may make such observations as he thinks proper. The Law Member, however, may speak according to the position of the seat he would occupy if he sat in order of seniority and not according to the seat he may occupy at the Council table under rule 5.

After all the Members in turn have had an opportunity of speaking, the Mover may speak once by way of reply, and any other Member may, with the permission of the President, speak once by way of explanation :

Provided that, if the matter be an amendment of a Bill, the Member in charge of the Bill shall be entitled to speak next after the Mover of the amendment.

Explanations. 10. When, for the purpose of explanation during discussion, or for any other sufficient reason, any Member has occasion to ask a question of another Member on any measure then under the consideration of the Council, he shall ask the question through the President.

Members who cannot speak English. 11. Any Member may speak at the request and on behalf of another Member who is unable to express himself in English.

12. On every motion before the Council, the question ^{Voting.} shall be put by the President, and shall be decided by a majority of votes.

In case of a division, the votes shall be taken by the Secretary in consecutive order, beginning with the Member on the left of the President.

After the question is put, no further discussion upon it shall be allowed.

13. Any Member may ask for any papers or returns ^{Papers and returns.} connected with any Bill before the Council. The President shall determine, either at the time or at the Meeting of the Council next following, whether the papers or returns asked for can be given.

14. Communications on matters connected with any Bill before the Council may be addressed, either in the form of a petition to the Governor General in Council, or in a letter to the Secretary, and must in either case be sent to the Secretary. Ordinarily, such communications will not be answered. ^{Communications as to pending Bills.}

Except in the case of the High Court at Fort William, such communications shall ordinarily be sent through the Local Government.

15. The Secretary shall either cause such communica- ^{Circulation of communications.} tions to be printed and send a copy to each Member, or circulate them for the perusal of each Member.

III.—Introduction and Publication of Bills.

16. Any Member desiring to move for leave to intro- ^{Notice of motion for leave.} duce a Bill in accordance with the provisions of section 19 of the Indian Councils Act, 1861, shall give the Secretary at least three days' previous notice of the title and object of the Bill.

If such motion be carried, the Bill with a full Statement of Objects and Reasons shall, if not already prepared, be prepared by the Member or (if he so desire) by the Secretary in consultation with the Member.

17. The Secretary shall then cause the Bill, together ^{Printing of Bills.} with the Statement of Objects and Reasons, to be printed and shall send a copy to each Member.

If any of the Members are unacquainted with English, he shall also, if requested, cause the Bill and the Statement of Objects and Reasons to be translated into Hindustani for their use.

18. The Council may, at any time after leave to intro- ^{Publication of Bills.} duce a Bill has been granted, direct that the Bill be published in such manner as the Council thinks fit.

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Introduction of
Bill.

19. When a Bill is introduced, or on some subsequent occasion, the Member in charge of it shall make one or more of the following motions :—

- (a) that it be referred to a Select Committee, or
- (b) that it be taken into consideration by the Council, either at once or at some future day to be then mentioned, or
- (c) that it be circulated for the purpose of eliciting opinion thereon.

Preliminary
Circulation.

20. No such motion shall be made until after a copy of the Bill and a copy of the Statement of Objects and Reasons have been furnished to each Member. Any Member may object to the motion unless such copies have been furnished to him at least seven days previously : and such objection shall prevail unless the President, in exercise of his power to suspend any of these Rules, allows the motion to be made.

Discussion of
Bill.

21. On the day on which such motion is made, or on any subsequent day to which the discussion is postponed, the principle of the Bill and its general provisions may be discussed.

Gazetting.

22. When any motion mentioned in rule 19 is carried, the Bill shall, together with a Statement of its Objects and Reasons, if not already published on a motion under rule 18, be published in English in the Gazette of India.

23. The Bill and Statement shall also, if publication has not already been directed, be published in such official Gazettes and in such vernacular languages (if any) as the Council in each case decides to be necessary for the purpose of giving notice to the communities affected by the Bill.

For this purpose, the Council shall make an order at the Meeting at which such motion is carried, and may from time to time, on the motion of any Member, vary or cancel such order.

Further publica-
tion by order.

23. The Governor General, if he see fit, may order the publication of a Bill, together with the Statement of Objects and Reasons which accompanies it, in such Gazettes and languages as he thinks necessary, although no motion has been made for leave to introduce the Bill.

In that case it shall not be necessary to move for leave to introduce the Bill ; and, if the Bill be afterwards introduced, it shall not be necessary to publish it again.

IV.—Select Committees.

Composition of
Committee.

24. The Law Member shall be a Member of every Select Committee.

RULES FOR THE CONDUCT OF LEGISLATIVE BUSINESS. 39

The other Members of every Committee shall be named by the Council when the Bill is referred, or at any subsequent Meeting.

The Law Member and, in his absence, the Member in charge of the Bill, shall be chairman of the Committee, and, in the case of an equality of votes, the chairman shall have a second or casting vote.

25. After publication of a Bill in the Gazette of India, the Select Committee to which the Bill may have been referred shall make a report thereon. Reports by Select Committee.

Such report shall be made not sooner than three months from the date of the first publication in the Gazette of India, unless the Council orders the report to be made sooner.

Reports may be either preliminary or final.

The Select Committee shall in their report state whether or not, in their judgment, the Bill has been so altered as to require re-publication, whether the publication ordered by these Rules or by the Council has taken place, and the date on which the publication has taken place, or, where publication in more than one Gazette or in more than one language is ordered, the date on which the publication in each such Gazette and each such language has taken place.

If, in the judgment of the Committee, the Bill has been so altered as to require re-publication, the Secretary shall send a copy of the altered Bill to the Secretary of the Department to which it pertains.

When the Committee recommend the re-publication of a Bill which was originally ordered by these Rules or by the Council to be published in more than one Gazette or in more than one language, they shall, in the absence of anything to the contrary in their report, be taken to recommend that the Bill be re-published in every such Gazette and every such language.

If the Committee are of opinion that it is unnecessary to re-publish the Bill in any such Gazette or in any such language, they shall, in their report, state the grounds of their opinion.

26. The Secretary shall cause every report of a Select Committee to be printed, and shall send a copy of such report to each Member, and shall cause the report, with the amended Bill, to be published in the Gazette of India. Printing and publication of reports.

If any Member present is unacquainted with English, the Secretary shall also, if requested, cause the report to be translated into Hindustani for his use.

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Presentation of
report.

27. The report of the Select Committee on a Bill shall be presented to the Council by the Member in charge of the Bill, and shall be taken into consideration by the Council as soon as conveniently may be; but any Member may object to its being so taken into consideration when he has not been furnished for a week with a copy of the report; and such objection shall prevail, unless the President, in exercise of his power to suspend any of these Rules, allows the report to be taken into consideration.

V.—Consideration and Amendments of Bills.

Proposal of
amendments.

28. When a Bill is taken into consideration by the Council, any Member may propose an amendment of such Bill.

Notice of
amendments.

29. If notice of such amendment has not been sent to the Secretary at least three days before the meeting of the Council at which the Bill is to be considered, any Member may object to the moving of the amendment and such objection shall prevail, unless the President, in exercise of his power to suspend any of these Rules, allows the amendment to be moved.

The Secretary shall, if time permits, cause every notice of amendment to be printed, and send a copy for the information of each Member.

If any Member present is unacquainted with English, the Secretary shall also, if requested, cause every such notice to be translated into Hindustani for his use.

Order of amend-
ments.

30. Amendments shall ordinarily be considered in the order of the clauses to which they respectively relate.

31. Notwithstanding anything in the foregoing Rules, it shall be in the discretion of the President, when a motion that a Bill be taken into consideration has been carried, to submit the Bill or any part of the Bill to the Council section by section. When this procedure is adopted, the President shall call each section separately, and, when the amendments relating to it have been dealt with, shall put the question "that this section, or (as the case may be) this section as amended, stand part of the Bill."

Re-publication
or re-committal
of amended Bill.

32. Any Member may move that a Bill which has been amended by the Council or by a Select Committee be re-published or re-committed, and, if the Council so decide, the President may order the Bill to be re-published or re-committed, as the case may be.

Passing of Bills.

33. If no amendment be made when a Bill is taken into consideration by the Council, the Bill may at once be passed.

If any amendment be made, any Member may object to the passing of the Bill at the same Meeting; and such objection shall prevail, unless the President, in exercise of his power to suspend any of these Rules, allows the Bill to pass.

Where the objection prevails, the Bill shall be brought forward again at a future Meeting, and may then be passed with or without further amendment.

VI.—Passing of Bills and Publication of Acts.

34. When a Bill is passed by the Council, a copy thereof shall be signed by the President, and, when the Governor General has declared his assent thereto, such copy shall be signed by the Governor General, and the Bill shall be published as soon as possible in the official Gazettes, under the signature of the Secretary, as an Act of the Governor General in Council. Authentication and publication of Acts.

Such publication shall be made in the Gazette of India in English and in the official Gazettes of the Local Governments in English and in such vernacular languages spoken in the territories subject to such Governments respectively as may be ordered by the Council or directed by the Local Government :

Provided that, when the Act does not apply to the whole of British India, it shall be published only in the Gazette of India and in the Gazettes of the Local Governments to whose territories it applies.

VII.—Duties of Secretary.

35. At least two days before each meeting of the Council, the Secretary shall send to each Member a list of the business to be brought forward at such meeting. List of business.

Subject to the provisions of rule 29, no business shall be entered by the Secretary in a list, unless notice thereof has been given to him at least three days before the meeting of the Council to which the lists relate : Provided that business may be added to the list at any time before a meeting under the special orders of the President.

36. The Secretary shall keep a journal, in which all the proceedings of the Council shall be fairly entered. Journal.

The journal shall be submitted after each meeting to the President for his confirmation and signature, and, when so signed, shall be the record of the proceedings of the Council.

37. The Secretary shall also cause to be prepared a full report of the proceedings of the Council at each of its Report of proceedings.

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meetings, and publish it in the Gazette of India as soon as practicable. He shall send a copy of such report to each Member and also to the Permanent Under-Secretary of State for India.

Other duties.

38. In addition to the other duties specially required by these Rules, it shall be the duty of the Secretary—

First, to draft all Bills originated by the Government of India, the Statements of their Objects and Reasons and the Reports of the Select Committee to which such Bills are referred ;

Second, to take charge of the copies of the Bills signed by the Governor General and of all the other records of the Council ;

Third, to keep the books of the Council ;

Fourth, to keep a list of the business for the time being before the Council ;

Fifth, to superintend the printing of all papers printed in pursuance of these Rules ;

Sixth, to assist the Council and all Committees in such manner as they may direct ;

Seventh, to send to the Secretary of the Department to which the Bill pertains any Bill which an Additional Member has obtained leave to introduce under rule 16 ;

Eighth, to examine all Bills deposited by Additional Members, and report to the President on those which contain clauses trenching on subjects coming within section 19 or section 22 of the Indian Councils Act, 1861 ;

Ninth, to write all letters which the Council or the President, or any Select Committee, or the Law Member, directs to be written.

Translations.

39. It shall be the duty of the Secretary to cause to be translated into Hindustani Bills, Statements of Objects and Reasons, Reports of Select Committees and Amendments of Bills, to cause papers to be explained to Members unacquainted with English, and otherwise to assist them in such manner as they may require.

VIII.—Miscellaneous.

Admission of strangers.

40. Strangers may be admitted into the Council Chamber during the sittings of the Council on the order of the President.

Application for orders of admission is to be made to the Secretary.

RULES FOR THE CONDUCT OF LEGISLATIVE BUSINESS. 43

41. The President, on the motion of any Member, may direct at any time during a sitting of the Council that strangers withdraw. Exclusion of strangers.

42. Any paper relating to any measure before the Council may be published by order of the President. Publication and sale of papers.

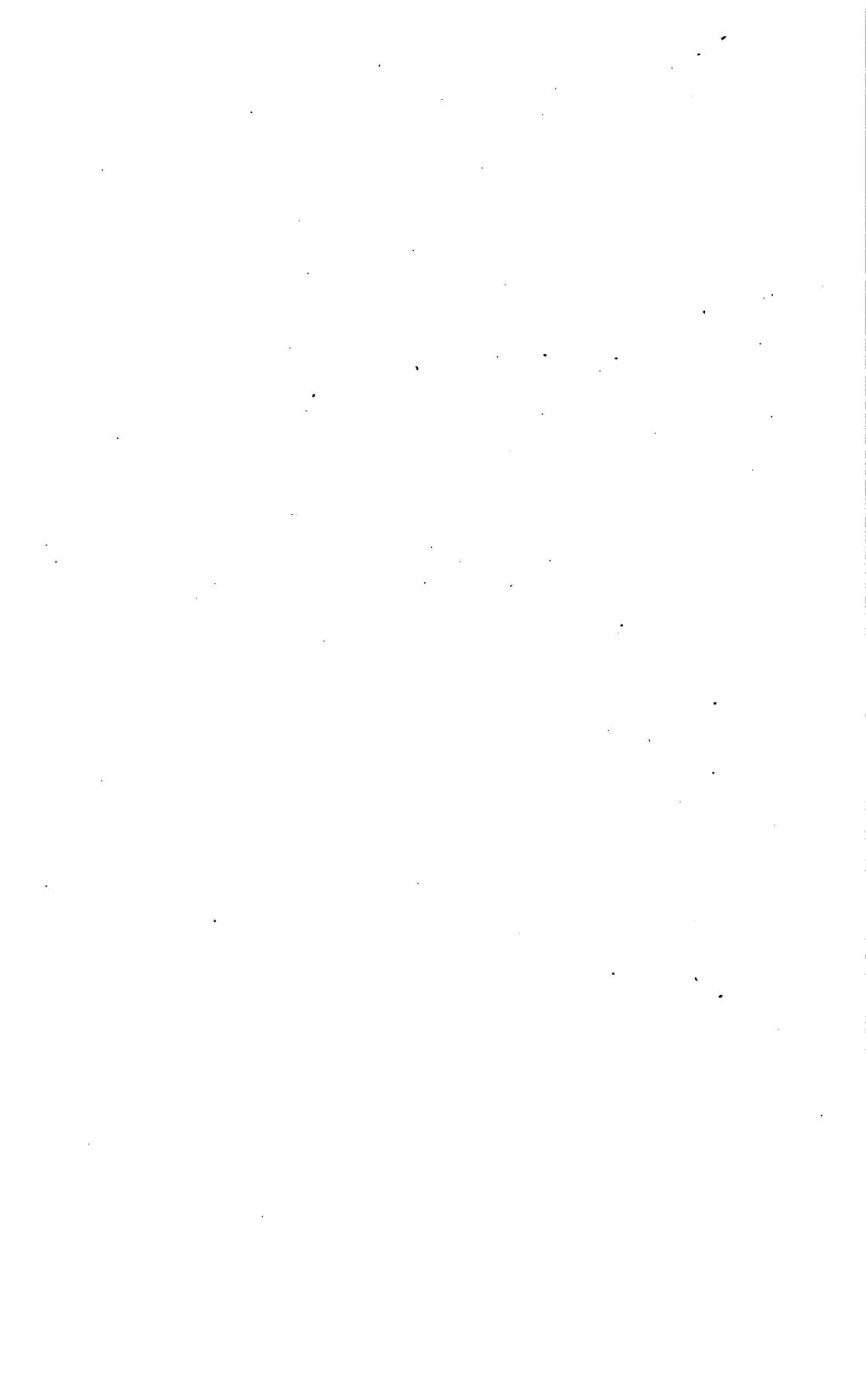
Copies of papers so published shall be sold at such rates as may be fixed by the Secretary.

43. Any Bill respecting which no motion has been made in the Council for two years may, by order of the President, be removed from the List of Business. Dropped Bills.

44. The President, for sufficient reason, may suspend any of the foregoing Rules. Suspension of Rules.

**RULES FOR THE DISCUSSION OF THE
ANNUAL FINANCIAL STATEMENT AND
THE ASKING OF QUESTIONS IN COUN-
CIL.**

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No. 9.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

Dated Calcutta, the 2nd February, 1893.

NOTIFICATION.

IN exercise of the power conferred by section 2 of the Statute 55 & 56 Vict., cap. 14 (the Indian Councils Act, 1892), the following Rules have been made by the Governor General of India in Council authorizing at any meeting of the Governor General's Council for the purpose of making Laws and Regulations the discussion of the Annual Financial Statement of the Governor General in Council and the asking of questions; the Rules have received the sanction of the Secretary of State for India in Council, and are now published for general information :—

I.—Preliminary.

1. In these Rules—

Definition.

“Council” means the Council of the Governor General of India for the purpose of making Laws and Regulations:

“President” means the Governor General or (during the time of his visit to any part of India unaccompanied by his Council) the President nominated by the Governor General in Council under the Indian Councils Act, 1861, section 6; or, in the absence of both the Governor General and the President so nominated, the senior Ordinary Member of Council present;

“Member” means a Member of the Council, whether ordinary, extraordinary or additional.

II.—Rules for the discussion of the Annual Financial Statement of the Governor General in Council.

2. The Financial Statement shall be explained in Council every year, and a printed copy given to each Member. *Financial Statement to be made.*

3. After the explanation has been made each Member shall be at liberty to offer any observations he may wish to make on the Statement. *Discussion.*

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Reply. 4. The Financial Member shall have the right of reply, and the discussion shall be closed by the President making such observations, if any, as he may consider necessary.

III.—Rules for asking Questions.

Questions. 5. Any question may be asked by any Member, subject to the following conditions and restrictions.

Notice of questions. 6. A Member who wishes to ask a question shall give at least six clear days' notice in writing to the Secretary to the Government of India in the Legislative Department, submitting in full the question which he wishes to ask.

Frame of questions. 7. Questions must be so framed as to be merely requests for information, and must not be in an argumentative or hypothetical form or defamatory of any person or section of the community.

Disallowance. 8. The President may disallow any question without giving any reason therefor other than that in his opinion it cannot be answered consistently with the public interests; and in such case the question shall not be entered in the Proceedings of the Council.

Extension or restriction of time. 9. The President may, if he thinks fit, allow a question to be asked with shorter notice than six days; and may in any case require longer notice if he thinks fit, or extend, if necessary, the time for answering a question.

Order. 10. When the President has permitted a question to be asked, it shall be entered in the Notice Paper for the day, and questions shall be put in the order in which they stand in the Notice Paper before any other business is entered upon at the meeting.

How put and answered. 11. A question shall be read by the Member by whom it was framed, or in his absence, if he so desires, by some other Member in his behalf, and the answer shall be given by the Member in charge of the Department concerned or by some other Member whom the President may designate for the purpose.

Answer to question not put. 12. The President may also rule, at his discretion, that an answer to a question on the Notice Paper, even though the question be not put, shall be given on the ground of public interest.

No debate. 13. No discussion shall be permitted in respect of an answer given to a question asked under these Rules.

Entry on proceedings. 14. The question asked and the answer given to it shall be entered in the Proceedings of the Council.

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REGULATIONS FOR THE NOMINATION
OF ADDITIONAL MEMBERS OF
COUNCIL.



No. 19.
GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

Dated Simla, the 23rd June, 1893.

NOTIFICATION.

IN exercise of the power conferred by section 1, sub-section (4), of the Indian Councils Act, 1892 (55 & 56 Vict., cap. 14), the Governor General in Council has, with the approval of the Secretary of State for India in Council, made the following Regulations for the nomination of Additional Members of the Council of the Governor General of India.

I.—Of the persons to be nominated Additional Members of Council by the Governor General for his assistance in making Laws and Regulations not more than six shall be officials.

Number of
officials.

II.—The nominations to five seats shall be made by the Governor General on the recommendation of the following bodies respectively, namely,—

Elected Mem-
bers.

A.—The non-official Additional Members of the Council of the Governor of the Presidency of Fort St. George.

B.—The non-official Additional Members of the Council of the Governor of the Presidency of Bombay.

C.—The non-official Members of the Council of the Lieutenant-Governor of the Bengal Division of the Presidency of Fort William in Bengal.

D.—The non-official Members of the Council of the Lieutenant-Governor of the North-Western Provinces and Oudh.

E.—The Calcutta Chamber of Commerce.

III.—The Governor General may, at his discretion, nominate persons to such of the remaining seats as shall not be filled by officials in such manner as shall appear to him most suitable with reference to the legislative business to be brought before the Council and the due representation of the different classes of the community.

Nominated
Members.

Vacancies in
elected mem-
bers.

IV.—When a vacancy occurs, and is to be filled under Rule II of these Regulations, the Governor General shall cause the proper body to be requested to recommend a person for nomination by the Governor General.

Recommendation
how made.

V.—The recommendation shall be made—

- (a) in the case of the non-official Additional Members or non-official Members of a Local Council, by a majority of votes of such members ;
- (b) in the case of the Calcutta Chamber of Commerce, in the manner laid down in the rules of the Chamber for carrying Resolutions or recording decisions upon questions of business brought before it.

Residence.

VI.—It shall be a condition in the case of any person to be recommended by the non-official Additional Members or non-official Members of a Local Council that he shall be a person ordinarily resident within the province for which such Council is appointed.

Failure to elect.

VII.—If within two months after receiving the request of the Governor General as provided by Rule IV the body fails to make a recommendation, the Governor General may nominate at his discretion a person belonging to the province or class which the body is deemed to represent.

Fresh request.

VIII.—If the Governor General shall decline to nominate any person who has been under these Regulations recommended for nomination, a fresh request shall be issued as provided in Rule IV, and the procedure laid down in Rules V and VII shall apply.

Temporary
provision.

IX. (a) As soon as conveniently may be after these Regulations come into force, five of the seats held by non-official persons shall be filled up by recommendation under Rule II.

(b) If there shall not be the full number of five vacancies available at once for this purpose, the Governor General shall determine at his discretion which of the bodies of groups mentioned in Rule II shall be requested to recommend the persons to fill up such vacancies as may then be available, and so whenever and as often as any further vacancies among non-official Members become available, until the full number of five has been completed.

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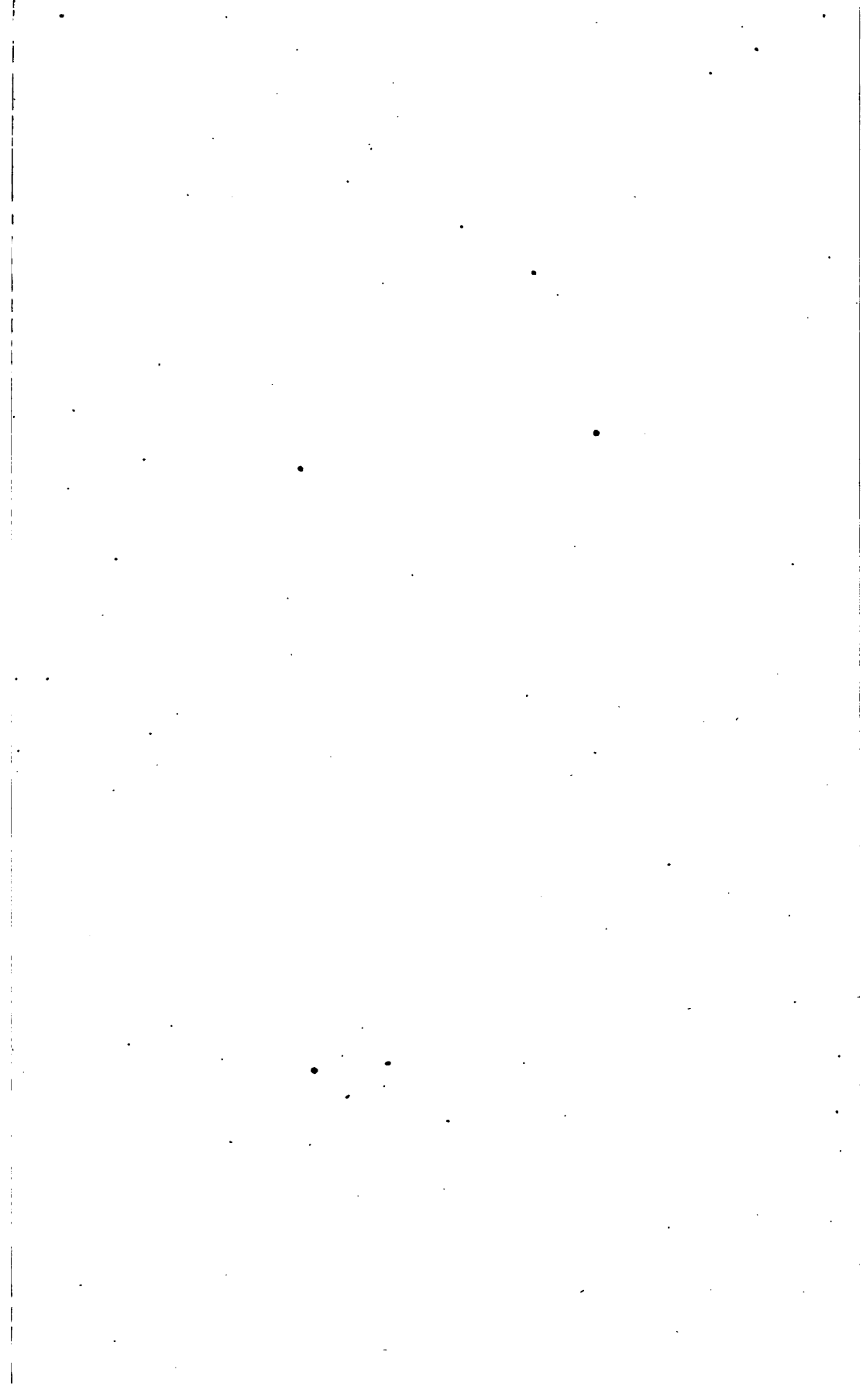
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